

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HEALTH



Safe and Healthy Lives in Safe and Healthy Communities

STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS,
DEPARTMENT OF HEALTH,
BOARD OF MEDICAL LICENSURE
AND DISCIPLINE

No. C97-122

In the matter of:
STEVEN D. CHERRY, D.O.

CONSENT ORDER

Pursuant to Section 5-37-5.1 of the General Laws of the State of Rhode Island, 1956, as amended, a notification from an insurance company was filed with the Board of Medical Licensure and Discipline. The notification set forth facts which were determined to be violations of R.I. Gen. Laws §5-37-5.1. An investigation was conducted by Investigating Committee III, so called, of the Board.

The following constitutes the Investigating Committee's Findings of Facts with respect to the professional performance of the Respondent:

Findings of Fact

1. A 50 year old man went to a local treatment center with complaints of a cough, nasal discharge and shortness of breath on exertion. A diagnosis of bronchitis was made and he was prescribed Augmentin by a physician's assistant student. The order was

CANNON BUILDING, Three Capitol Hill, Providence, Rhode Island 02908-5097

Hearing/Speech Impaired, Call 1-800-745-5555 (TTY)

Web Site: www.health.state.ri.us

co-signed by the Respondent.

2. The patient was allergic to Penicillin as documented by a sticker affixed to each page of the medical record which had been initiated by the treatment center four years earlier. Subsequently the patient developed a rash for which he required treatment at a local hospital emergency room.

3. The Board of Medical Licensure and Discipline alleges that the Respondent has violated Rhode Island General Laws 5-37-5.1 (19) for failure to take notice of a patient's well documented allergy to penicillin when prescribing Augmentin to the patient.

The parties agree as follows:

(a) The Respondent is a physician who is licensed in the State of Rhode Island, osteopathic license number DO440.

(b) Respondent admits to the jurisdiction of the Board and hereby agrees to remain under the jurisdiction of the Board.

(c) Respondent has read this Consent Order and understands that it is a proposal of Investigating Committee I of the Board and is subject to the final approval of the Board. This Consent Order is not binding on the Respondent until final ratification by the Board.

(d) Respondent hereby acknowledges and waives:

1. The right to appear personally or by counsel or both before the Board;
2. The right to produce witnesses and evidence in his behalf at a hearing;

3. The right to cross examine witnesses;
4. The right to have subpoenas issued by the Board;
5. The right to further procedural steps except for those specifically contained herein;
6. Any and all rights of appeal of this Consent Order;
7. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review;
8. Any objection to the fact that it will be necessary for the Board to become acquainted with all evidence pertaining to this matter in order to review adequately this Consent Order;
9. Any objection to the fact that potential bias against the Respondent may occur as a result of the presentation of this Consent Order.

(e) If the Consent Order is not accepted by the Respondent, the Investigative Committee will recommend to the Board that an Administrative Hearing be scheduled with respect to any and all acts of alleged unprofessional conduct. If the Board approves, a Hearing Committee will be convened for the purpose of conducting the Administrative Hearing. The composition of the Hearing Committee is described by statute. If the Hearing Committee votes in favor of finding the Respondent guilty of unprofessional conduct as specified in

the charges, the Board shall prepare written findings of fact and law in support of said conclusion. If the accused is found not guilty, the Board shall, forthwith, issue an order dismissing the charges.

(f) Acceptance of this Consent Order constitutes an admission by the Respondent of the facts set forth herein.

(g) This Consent Order shall become part of the public record of this proceeding once it is accepted by all parties and by the Board. It shall be published as the Board, in its exercise of its discretion, shall determine.

(h) Failure to comply with this Consent Order, when signed and accepted, shall subject the Respondent to further disciplinary action.

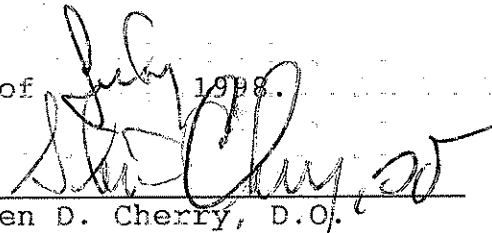
(i) Respondent voluntarily accepts the Board's finding of unprofessional conduct. The Respondent accepts a sanction of a Reprimand.

(j) Respondent shall pay an administrative fee of Five Hundred Dollars (\$500.00) within 60 days of the ratification of this Order.

Signed this

7th

day of July 1998.


Steven D. Cherry, D.O.

Ratified by the Board of Medical Licensure and Discipline at
a meeting held on *July 8,* 1998.

Patricia A. Nolan MD, MPH
Patricia A. Nolan, MD, MPH
Director of Health
Chairperson
Board of Medical Licensure and
Discipline